

FILEDUnited States District Court
Albuquerque, New MexicoMitchell R. Elfers
Clerk of Court**UNITED STATES DISTRICT COURT**for the
District of New Mexico

United States of America

v.

Dawayne YATES

Case No. **22mj834***Defendant(s)***CRIMINAL COMPLAINT**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of April 28, 2022 in the county of Bernalillo in the
 District of New Mexico, the defendant(s) violated:*Code Section**Offense Description*

18 U.S.C. 1951

18 U.S.C. 922(g)(1) and 924

18 U.S.C. 931(A)(1)

Interference with Interstate Commerce by Threats or Violence

Possession of a Firearm or Ammunition by a Convicted Felon

Possession of Body Armor by a Convicted Felon of a Violent Offense

This criminal complaint is based on these facts:

See the attached affidavit which has been approved by Assistant United States Attorney Samuel Hurtado.

☒ Continued on the attached sheet.*Complainant's signature*

Erica Rosenblum ATF Agent

Printed name and title

Signed electronically and sworn telephonically

Date: 05/20/2022*Judge's signature*City and state: Albuquerque, NM

United States Magistrate Judge John F. Robbenhaar

Printed name and title

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1. Erica Rosenblum, a Special Agent with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), being duly sworn, deposes and states:
2. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF). Beginning in September of 2020, I attended a 26-week ATF academy in Glynco, Georgia that certified me as an ATF Special Agent.
3. Through the ATF, I attended the Criminal Investigator Training Program at the Federal Law Enforcement Training Center, as well as the Special Agent Basic Training Program at the ATF National Academy. During these programs, I received instruction in and practiced the investigation of violations of federal firearms, explosives, and arson statutes. My training and experience has involved, among other things: (1) the debriefing of defendants, witnesses and informants, as well as others who have knowledge of the purchase, possession, distribution, and transportation of firearms and of the laundering and concealment of proceeds of firearms and drug trafficking; (2) surveillance; (3) analysis and processing of documentary, electronic, and physical evidence; (4) the legal and illegal purchase of firearms; (5) the execution of arrest and search warrants seeking firearms and narcotics; and (6) firearms trafficking.
4. I am an investigative, or law enforcement officer of the United States within the meaning of Title 18, United States Code, Section 2510(7), in that I am an officer of the United States who is empowered by law to conduct investigations and make arrests for the offenses enumerated in Title 18, 21, and 26, United States Code.
5. This affidavit is intended to show only that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.
6. The statements contained in this affidavit are based, in part, on information provided by Special Agents and/or Task Force Officers of the ATF and other law enforcement officers, and on my background and experience as a Special Agent of the ATF.

PROBABLE CAUSE

7. On April 29th, Your Affiant was notified of an armed robbery that took place on April 28th, 2022, at the Big 5 Sporting Goods Federal Firearms Licensee (FFL), located at 2720 San Mateo Blvd. NE, Albuquerque, NM 87110.

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8. Your Affiant reviewed an Albuquerque Police Department (APD) report dated April 28, 2022, where Officers responded to a reported armed robbery at Big 5 Sporting Goods, located at 2720 San Mateo Blvd. NE, Albuquerque, NM 87110.
9. According to the report, responding Officers made contact with the victim, A.F., who was working in the firearms department at the time of the incident. According to A.F., a Caucasian male wearing a baseball cap, a red bandana, a black/gray shirt and black pants entered the business and requested to look at a rifle.
10. According to A.F., the male was asked to remove his hat and bandana and to provide identification. A.F. informed Officers the male matched the identification card provided and the name on the identification card was "Dawayne YATES".
11. After confirming his identity, A.F. handed YATES the rifle, later identified as a Ruger, model Mini-14, 5.56mm caliber rifle bearing serial number 584-68385. According to A.F., YATES had the rifle in his hands when he asked to view another firearm in the display case. After asking for the rifle back in order to let him see the other firearm, YATES pulled out a black and silver handgun out of his right pant pocket and pointed it at her. A.F. indicated to Officers that YATES said "Give me the other rifle". A.F. informed Officers she then grabbed a shotgun, later identified as an AKUS SILAH SAN TIC AS, model XX3D-M-2, 12-gauge shotgun, bearing serial number 2133104612, and handed it to YATES. A.F. informed Officers she was afraid she was going to be shot.
12. According to A.F., YATES placed the abovementioned rifle and shotgun into a gun case that he stole from the store as well. YATES left through the front entry doors

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with the gun case containing the abovementioned rifle and shotgun and was observed getting into a silver Toyota RAV4 with no visible license plate.

13. A Crime Scene Specialist (CSS) was dispatched to the scene to attempt to obtain fingerprints from the firearm display case. Those fingerprints were submitted to the Automated Fingerprint Identification System (AFIS) database where a match was located. Dawayne YATES was found to be a match from one of the prints lifted from the glass display case.
14. Your Affiant met with APD Detective/ Federal Bureau of Investigation (FBI) Task Force Officer (TFO) Perea after learning he was investigating this armed robbery, as well as several other armed robberies where YATES is a suspect in the Albuquerque area. Detective Perea informed me a state arrest warrant was issued for YATES on April 29th, 2022, for armed robberies that occurred on April 23, 2022, April 25, 2022 and for the incident that occurred on April 28, 2022 at Big 5 Sporting Goods, located on San Mateo.
15. Your Affiant was also informed, on May 6, 2022, A.F., the victim from the incident that occurred on April 28, 2022, at Big 5 Sporting Goods, was shown a photo array of potential suspects that may or may not have been involved in the incident. A.F. positively identified YATES in the photo array.
16. On May 2, 2022, YATES was located at the Green Tree Inn and Suites, room 5109, located at 2120 Menaul NE, Albuquerque, NM 87107 by the Bernalillo County Sheriff's Office (BCSO). BCSO utilized a PA system on a police vehicle in order to call YATES out of the room. YATES exited the room and was taken into state custody without incident. BCSO Deputies and APD Officers cleared room 5109 to

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ensure no other occupants were present where a handgun was seen in plain view on the bed. During a search incident to arrest, approximately twenty-three (23) suspected fentanyl pills were located in YATES' front pocket. YATES was transported to the police station and advised of his Rights per *Miranda*, when YATES requested an attorney.

17. On May 2, 2022, a state search warrant was obtained and executed at the Green Tree Inn and Suites, room 5109, located at 2120 Menaul NE, Albuquerque, NM 87107. During the execution of the search warrant of room 5109, Officers located a Taurus, model G2S, 9mm caliber semiautomatic pistol bearing serial number TLS32609, which was loaded with six (6) rounds of 9mm caliber ammunition, a Remington Arms Company, Inc., model 552, .22 caliber rifle bearing no serial number, two (2) light blue sweaters, a bullet proof vest, a box of ammunition containing twelve (12) rounds of 9mm caliber ammunition and three (3) pills.
18. It should be noted the abovementioned Taurus pistol matches the description of the handgun used in the Big 5 Sporting Goods incident.
19. It should be noted, on the day and at the location of the state arrest and search warrant, a silver Toyota RAV4 with no visible license plate, matching the description of the vehicle YATES was seen leaving in on April 28, 2022, at Big 5 Sporting Goods, was parked on the property of the Green Tree Inn and Suites and YATES was found to be in possession of the key fob for that vehicle. The vehicle was sealed pending a search warrant.
20. On May 9, 2022, a state search warrant for the silver Toyota RAV4 was obtained and executed, but nothing of evidentiary value was observed or seized.

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21. On May 18, 2022, Your Affiant reviewed the abovementioned firearms (the Taurus pistol and the Remington rifle) and test fired both firearms. The firearms both fired and functioned as designed.
22. It was determined the abovementioned firearms and ammunition were not manufactured in the state of New Mexico, therefore affecting interstate commerce.
23. Your Affiant determined that YATES has been convicted on the felony crimes of Trafficking Controlled Substances (D-202-2003-03076), Commercial Burglary (D-202-CR-2009-2326) and Shoplifting (Over \$500 but less than \$2500), Larceny (Over \$500 but less than \$2500), and Shoplifting (Over \$500 but less than \$2500) (D-202-CR-2010-02226) out of the Second Judicial District of New Mexico and Aggravated Assault with a Deadly Weapon (D-1329-CR-2010-0309) out of the Thirteenth Judicial District Court of New Mexico. YATES was also convicted of the felony crime of unlawfully taking a vehicle without consent (GA104225-01) out of the Northeast District Court of California.
24. Based upon these facts, there is probable cause to believe that Dawayne YATES interfered with interstate commerce by threats or violence, in violation of Title 18 U.S.C. § 1951, knowingly possessed a firearm as a convicted felon, in violation of Title 18 U.S.C. §§ 922(g)(1) and 924 and possessed body armor as a convicted felon of a violent offense, in violation of Title 18 U.S.C. § 931 (A)(1).

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Respectfully submitted,



Erica Rosenblum
Special Agent
ATF

Electronically submitted and telephonically sworn
on May 20, 2022:



UNITED STATES MAGISTRATE JUDGE